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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,927	10/02/2003	Alberto Arozena Bergaretxe	HERR 20.657	9568

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Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, NY 10022-2585

EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3637

MAIL DATE	DELIVERY MODE
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04/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/677,927

Applicant(s)

AROZENA BERGARETXE,
ALBERTO

Examiner

M. Safavi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on October 02, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/02/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-11 are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device.

Claim 1, it is not clear as to what elements go to form the claimed invention. For example, Claim 1 recites "formwork system, of the type...". However, it is not understood as to what "of the type..." serves to define. Is the claimed formwork to be patented merely similar to what might be presented within claim 1? Claim 1 recites "that is recoverable and is assembled as a grid, using..." and proceeds to list various elements. However, it is not clear as to which of these elements, if any, go to make the claimed formwork. Does the claimed formwork possess "a grid"? Does the claimed formwork possess "support bolsters"? Does the claimed formwork possess "vertical braces"? Line 3 recites "support bolsters" but follows with "for supporting..." which would infer an intended use only. None of these questions can be answered with any degree of certainty when reading the language of claims 1-11. Lines 2-3, "the general structure" lacks antecedent basis within the claim. It is therefore, not clear as to what "the general

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structure” serves to define. Line 4, “the corresponding primary beams” lacks antecedent basis within the claim. It is therefore, not clear as to what “the corresponding primary beams” serves to define. Do “the corresponding primary beams” ever form part of the claimed invention? Does the claimed formwork possess “formwork panels”? Line 4, “the formwork panels” lacks antecedent basis within the claim. It is therefore, not clear as to what “the formwork panels” serves to define. Line 5, to what does “they” refer? It is not clear as to which, if any, of the recited elements are being referenced with the term “they”. Line 6, “the formwork skin” lacks antecedent basis within the claim. It is therefore, not clear as to what “the formwork skin” serves to define. Lines 5-6 recite “which formwork panels consist of a frame with inner partitions defining the means of support of the formwork skin”. However, it is not clear as to whether such frame is the same as the “grid” or an entirely different grid/frame? Line 7, “the cross beams” lacks antecedent basis within the claim. It is therefore, not clear as to what “the cross beams” serves to define. As another example, lines 9-10 recite “and later place the formwork panels” which would infer that formwork panels do not form part of the invention. Line 10, it is not clear as to what is being set forth by “such that...”. Is there a precondition for any of the support bolsters in order to be formed with a plate? Lines 11-12 recite “that define as many cradles”. However, it is not clear as to just how many cradles are being set defined. Line 16, it is not clear as to what is being defined by “in order to determine a wedge effect”. How is a wedge effect being determined?

Claims 2-11 have similar ambiguities as set forth with respect to claim 1. For example, claim 2 at lines 4-6 recites “as well as in certain cases the secondary beams

used in...". Are these certain cases ever realized? Does the claimed formwork possess "secondary beams"? Does the claimed formwork possess columns or walls? Line 5, "the secondary beams" lacks antecedent basis within the claim. It is therefore, not clear as to what "the secondary beams" serves to define.

Examiner will proceed with prosecution on the merits as to claim 1-11 as best understood.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by
United Kingdom reference 1,457,136 (GB '136).**

GB '136 discloses, Figs. 1, 2, and 6, a formwork system, of the type that is recoverable and is assembled as a grid, using support bolsters 101/106 and with vertical braces 100 participating in the general structure, on top of which are mounted the support bolsters 101/106 for supporting the ends of the corresponding primary

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beams 36 or 37 or 38 or 39 or 40, between which are disposed the formwork panels 92 so that they are supported, which formwork panels 92 consist of a frame 93, (or, 36 or 37 or 38 or 39 or 40?), with inner partitions 39 defining the means of support of the formwork skin, (92?) characterized in that on the support bolsters 101/106 in addition to the primary beams rest the cross beams 36 or 37 or 38 or 39 or 40 that close the formwork grid, defining the exact distance between the primary beams 36 or 37 or 38 or 39 or 40 and stiffening the grid structure so that it is even possible to assemble the entire grid and later place the formwork panels, thereby simplifying the assembly; such that the support bolsters are provided with a plate 101/106 having four cross-shaped sectors that define as many cradles 102/103 or 108 with inclined bases for the positioning and support of the ends of the primary beams 36 or 37 or 38 or 40 and the cross beams 36 or 37 or 38 or 40, with the primary beams and the cross beams having lower projections 'A' or 50/102 on their ends in the form of heels 'A' or 50/102 with a lower surface, (bottoms thereof), that is inclined complementarily to the base of the support cradles 102/103 or 108 established in the plate 101/106 in order to determine a wedge effect of the panels towards the brace.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Safavi/
Primary Examiner, Art Unit 3637

M. Safavi
April 08, 2008